

August 7, 2007

The Honorable Judge Saris  
United States District Court  
Joe Moakley Federal Building  
Boston, MA 02210

FILED  
IN CLERKS OFFICE  
2007 AUG 10 P 12:24  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

Dear Honorable Judge Saris:

First of all, I would like to apologize for bringing this matter directly to Your Honor's attention; I realize how busy You are at all times and greatly value Your time. Yet, I feel that Your involvement is desperately needed in the situation that has developed concerning one of Your previous orders in my criminal case.

As Your Honor may recall, during my Sentencing, You said the following: "...recommended for the RDAP [Drug Program] ...and all the carrots that come along with this program..." This statement was the result of Your Honor being aware of my long and substantial history of drug abuse, which was also well documented in my Pre-Sentence Investigation Report. Clearly, I am one of the most suitable candidates to take advantage of the RDAP program, as Your Honor so properly noted in the past.

Nevertheless, upon my arrival to the Federal Prison Camp Lewisburg and my attempt to enroll in the RDAP, I was immediately advised by Mr. Salvatori, (one of the directors of the RDAP), that I was absolutely ineligible for the program! He further stated that I was being denied admission only because I had refrained from using drugs during my Pre-Trial period, as directed by the Probation Department. According to Mr. Salvatori, I would have qualified for the Program easily if I had given a "dirty" urine during the Pre-Trial time. Therefore, I am being punished for having chosen to do the right thing on Pre-Trial, and in effect, Lewisburg rewards those of us that do not follow the orders of the Probation Dept. during Pre-Trial. Mr. Salvatori also added that he was fully aware of my long and extensive history of drug abuse and of my Sentencing Judge's recommendation, but that "...it had no bearing whatsoever on my eligibility for the RDAP"!

Your Honor, simply put, I want to continue to do the right thing and remain on my path of rehabilitation. I desperately need Your help and Your intervention in this matter. I realize that my credibility is not the highest with Your Honor, yet in all fairness, what the RDAP officials at Lewisburg are doing is just wrong. My history of drug abuse is well documented and proven, yet I cannot enter the program and benefit from it because I am being punished twice, once for using the drugs, and again for choosing not to use them any longer. As they say: "Damned if you do, damned if you don't!"

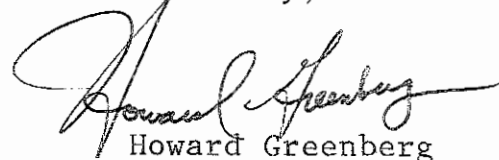
There are many other inmates who unfortunately find themselves in a similar position. Some revert back to the Courts, with various degrees of success, and some are actually able to overcome the obstacles imposed by the BOP. Just recently, in Kuna v. Daniels, 234 F. Supp. 2d 1168 (D OR 2002), the Court granted inmate's petition and ruled that he was eligible for the RDAP, despite the BOP's objections. Similarly, in Mitchell v. Andrews, 235 F. Supp. 2d 1085 (ED CA 2001), where the facts of the matter were almost

identical to my own, the Court ruled that denying Mitchell's admission to the RDAP was unreasonable and arbitrary and constituted an abuse of the BOP's discretion. Much like myself, Mitchell had argued that there was no BOP rule or policy that substance abuse must have occurred during the 12-month period immediately preceding incarceration. Clearly, the BOP is incorrect in their determination of my eligibility as well, which is proving costly to me.

Your Honor, I need Your help, as no one else is able to overcome the BOP's position. I only seek to continue on the path that the Court has set me on, I just want to do the right thing. I have been through my share of trouble, but I only want to improve from now on. I don't want to use drugs any longer, I don't want to be incarcerated any longer, I don't ever want to be in this position again. Everyone knows that the RDAP is the best single "tool" to stay true to this direction. Why then would the BOP put barriers to these attempts; why would the BOP reward improper behavior such as "dirty urine"; and why would the BOP punish someone who wants to improve?

Your Honor, I look forward to hearing from You and receiving Your guidance in this matter. Please help me continue doing the right thing, it feels better, and I know I am capable of being a better man. Thank You very much for Your time and assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Howard Greenberg".

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